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LOYOLA DIGEST

Vol. 2 — No. 1

LOYOLA UNIVERSITY SCHOOL OF LAW

November, 1960

Prof. Rex Dibble Appointed Dean Of Law School

Professor J. Rex Dibble has been appointed Acting Dean of Loyola Law School, succeeding Sayre MacNeil, who has been named Dean Emeritus. Both appointments were made by Reverend Charles S. Casassa, S.J., President of Loyola University. Mr. MacNeil has been dean of the law school since 1941.

Professor Dibble has been teaching at the law school since 1937, having taken his LL.B. from Stanford Law School in 1936. Well known to the students and alumni, he has taught Constitutional law, Trusts, Taxation, Negotiable Instruments and Agency.

The new dean is a member of the American Law Institute, the Los Angeles Bar Association, the Federal Bar Association, the American Bar Association, the American Judicature Society, and the Order of the Coif.

Author of various articles on taxation, Dean Dibble assisted C. G. Vernier on several volumes of American Family Laws.

Special Consultant

He is a special consultant in the fields of taxation and negotiation of government contracts. He served as an assistant counsel for the War Department Price Adjustment Board, counsel for the Los Angeles Extension of

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LOYOLA WINS STATE MOOT COURT MEET; VIES IN REGIONAL COMPETITION THIS WEEK

Having won the State Moot Court competition last month, the Loyola moot court team will participate in the preliminary oral arguments of the National Moot Court competition during the week of November 14, 1960, arguing a case involving a decision of the National Labor Relations Board. Competing schools will be Loyola, U. S. C., U. C. L. A., Santa Clara and the University of San Francisco. The winner will participate in the National Moot Court finals which will be held in New York on December 7, 8, 9, 1960.



PICTURED ABOVE are Loyola's State Moot Court champions, from left to right, Garry Cooper, John Gallagher and Jim McCarthy.

State Champions

By defeating the University of Southern California Law School team in the state finals held at the State Bar Convention on September 29, 1960, Loyola won the State Moot Court competition.

The teams argued a case, hypothetically pending before the Court of Appeals for the Ninth Circuit, involving the question whether California may constitutionally adopt the commission system of litigating the rights of parties involved in automobile accidents.

Team Members

From Loyola, the attorneys for the appellant were Charles M. Cooper, John V. Gallagher and James J. McCarthy. They successfully argued against the constitutionality of the commission system. For the respondent, from U.S.C., were Thomas E. Rubbert and Herbert B. Silver.

Judges were Superior Court
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President Speaks

By Owen G. Fiore

President, Loyola Bar Association

With renewed vigor and energy, your Loyola Bar Association is well on its way in providing the student body with a full, carefully planned program of activities for the 1960-1961 school year. This program is one in which all may participate. In fact, I urge each of you to become active in the Association's program. This is your organization—it is designed not only to provide professional and social activities, but also to give each law student an opportunity to train for service to the profession and the community through participation in student activities here at Loyola Law School.

Orientation Completed

The Orientation program for first-year students is nearly completed. In fact, with the student

assistance at registration time, the Annual Smoker and the coming First-Year Seminar, you new students should be well acquainted with Loyola and ready to proceed with your study of the law. I'd like to especially thank Bill Rylaarsdam, Bob Ambrose and Jack O'Rourke for their efforts in connection with the Annual Smoker. It was the best attended smoker in recent years, and our thanks also go to the faculty and administration speakers: Fr. Joseph J. Donovan, S.J., Regent; Dean J. Rex Dibble; and Professor Lloyd Tevis.

This school year promises to be a full one insofar as Loyola Bar Association activities are concerned. The Mock Trial and Scott Competition will provide both day

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Mock Trial Set For Friday, December 2nd

Loyola Law School's Second Annual Mock Trial competition has been set for Friday evening, December 2, 1960, at the Los Angeles County Courthouse, according to second-year student Jim Parker, Chairman of the Mock Trial committee.

Purpose

Designed to give third year students experience in trial practice, the competition is a courtroom litigation of a fictitious lawsuit. A committee of the faculty, chaired by Professor Marburg Yerkes, has selected the best answers and complaints submitted by the participants. Selected by the committee to represent the defendant are Jim Fahres, Jack O'Rourke, and Frank Rivera, chosen to represent

the plaintiff are Bob Miller, Bob Olsen and Jim Thompson.

Scheduled for December, the trial will be judged by a Judge of the Superior Court. The jury will be impanelled from the audience.

Two Trials Hoped

Mock Trial committee chairman Jim Harper hopes to have two trials this year. "Because of the success of last year's trial, we will try to conduct two mock trials, one in the fall semester and one in the spring."

Doug Martin and Ray Byrne have been chosen as witnesses. Other witnesses will be chosen from the second year class by the faculty committee in the same way that the attorneys were selected.

DOUGLAS MARTIN:

DIVORCE AND ALIMONY

Within the past year the California Supreme Court has accepted the view of the majority of jurisdictions in the United States that an ex parte divorce dissolves the marriage status of the parties but does not necessarily dissolve or alter the support rights of the wife. (**Hudson v. Hudson**, 52 Cal. 2d 735).

The general rule has been that a valid marriage must be in existence for a wife to obtain either temporary or permanent alimony. However, as a result of the **Hudson** case, an ex-wife, upon proper showing of her financial need and her former husband's ability to pay, may obtain alimony, even though the marriage has been previously dissolved in another state.

Full Faith and Credit

The most recent example of the effect of the **Hudson** case on California law is **Weber v. Superior Court** (53 Cal. 2d 403), where the court held that an ex-wife may compel the California court to hear and determine on the merits an order to show cause why she should not receive temporary alimony, cost, and fees, even though her former husband had obtained a Nevada ex parte divorce nearly three years before. Under the Full Faith and Credit clause of the United States constitution, California must recognize a Nevada judgment if Nevada had jurisdiction over the subject matter of the action, i.e. the marriage.

Due Process

Thus, because of the ex parte divorce, California must take cognizance of the dissolution of the marriage. But the wife is not thereby deprived of her support rights by the Nevada judgment. To so dispossess the wife would be to divest her of property rights without due process of law. The interests of California in protecting the wife have been held to outweigh the interests of Nevada in protecting its domiciliary, i.e. the husband, from supporting his former wife.

As Justice Peters states in **Hull v. Superior Court** (54 ACA 132), the **Hudson** and **Weber** decisions recognize the basic proposition that the severance of the personal relationship is divisible from the determination of support and property rights.

Divisible Divorce

The question is raised as to the effect the concept of "divisible divorce" will have on society. In the **Weber** case the ex-wife was allowed to institute alimony proceedings, by forcing her former husband to appear before the court, some three years after the ex parte divorce a vinculo had become final, and after he had remarried. It is recognized that since alimony is basically an equity action, the defense of laches could apply to bar the former wife's action, however, it is felt that an original action for alimony should not be permitted after a definite time after the final entry of the ex parte divorce. The rationale of this contention is that the husband's second family is unexpectedly and unnecessarily disrupted. And this disruption, multiplied many times over, will have a detrimental effect on society.

For Example

Take, for example, a perfectly plausible situation where a husband and his second family, having relied on the complete dissolution of the marital relation between his former wife and himself some 3 or 5 years before, extended their present and future credit to the maximum of their income by purchasing a house with installment payments extending 10 to 20 years, furniture, and an automobile. Here it is obvious that a decree awarding the ex-wife reimbursement for expenses up to the time of bringing of her action, or merely an award of future alimony, such as \$50.00 a month—perhaps reasonable if ordered before his remarriage—would now be a hardship on the former husband and his second family.

Since there is no definite time after which the ex-wife may be barred from bringing an action for alimony, it is a practical impossibility for the husband to plan, in the caring and rearing of his second family, a program of short and long range purchases and indebtedness. This is so because he can never know from one year to the next whether his former wife will sue for and be awarded an amount of alimony which could possibly throw him into insolvency.

Suggestion

This writer, therefore, raises the suggestion that a statute of limitations, such as one existing in the state of Kansas (Section

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WALTER HENRY COOK:

Professor At Loyola

By Mary Flanagan

Walter Henry Cook, Loyola Law School's first full time Professor, began his teaching career with the Law School in 1934. A native of Cleveland, Ohio, the Professor obtained his college, law and master of arts degrees from West-

Western Reserve. In 1921 Mr. Cook suffered a serious illness, which recurred in 1922. Acting on the advice of his doctor, Mr. Cook moved to the milder climates of Seattle, Washington, and Salem, Oregon, and later to California, where he now resides with his charming wife.

Case Method

In Los Angeles, Mr. Cook taught at a proprietary school—Los Angeles College of Law. At this time most law schools were following the hornbook method of instruction. However, as Mr. Cook had been instilled with the casebook method, which his alma mater, Western Reserve, had inaugurated in the United States, Mr. Cook pursued this method of instruction at Los Angeles College of Law, and later at Loyola Law School.

At these institutions he has taught such courses as Securities, Sales, Torts, Personal Property, Real Property, Bailments, Trusts, and Contracts.

In lecturing, Mr. Cook has never relied heavily on notes, preferring to stress abstract principles, which demand use of analysis.

Memory

During his first year in law school, he found that he had to battle his gift of a photographic memory in order to develop his analytical skill. Mr. Cook's great ability at analysis combined with his fine memory have stood him in excellent stead as a Professor—especially since 1955 when he suffered the permanent loss of his sight. Mr. Cook's loss of sight has not prevented him from presenting finely detailed lectures in which he minutely analyzes each case—treating the opinions of the judges as tools for instruction and learning and not as a Bible.

Revered

Mr. Cook is highly esteemed and revered, and has received many awards among which number—a plaque from Phi Alpha Delta, Ford Chapter, honoring him for his outstanding service, a braille watch from Phi Alpha Delta, a silver cup from the Loyola Alumni Association, presented at the Priests' Convocation for 25 years of service and he has been made an Honorary Justice of Phi Alpha Delta for life.

Nine out of every 10 persons who file an income tax return make less than \$10,000 a year, the Tax Foundation says.

The U.S. International Law Committee is considering the codification of International Law.



WALTER H. COOK

ern Reserve in 1905, 1908 and 1912, respectively. Mr. Cook particularly recalls his instruction in the law of contracts, which he received from a great legal educator at Western Reserve—Jerry Knowlton.

Fraternities

In 1905 Mr. Cook became a member of Phi Gamma Delta, and had the honor of receiving his fraternity pin from Newton D. Baker, Secretary of State during the administration of Woodrow Wilson. Subsequently, Mr. Cook joined two other fraternities—Phi Alpha Delta and Delta Sigma Rho, honorary debating society, in 1906.

After completing his legal education, Mr. Cook spent three years in general law practice. During this time, Cleveland was undergoing great expansion—with the city literally moving into the country. One incident which Mr. Cook considered amusing occurred when he held the position of office counsel in titles and conveying with the large real estate firm of H. E. Cook and Associates.

Incident

One of Mr. Cook's functions was to prepare abstracts of title, as there were no title insurance companies at this time. People were very informal about keeping records, so much that Mr. Cook once discovered a deed neatly folded into an old clock.

During the First World War, the Professor taught history at Cleveland School of Education, part of

LIBRARIAN'S CORNER:

Study Time, Cases And Reading

By Myron Fink

Once again we begin a new academic year. New faces, new challenge, new resolution. A most propitious time, it seems to me, for facing up to certain matters which may well condition success or failure in law school. Such matters are the concern of seniors as well as freshmen. They deserve to be considered carefully by everyone, regardless of point of view. They go to the very quality of legal education which is the first concern of all of us.

Time

How much time are you planning to devote to your school work? The Loyola University Law School Bulletin states: "No student will be admitted or continued in the full-time program who does not devote substantially all his time to the work of the School." The full-time program is 14 hours a semester. In my judgment, several hours of study and preparation are needed for each hour of class time. In effect, the full-time student is required to devote about 40 hours each week to his school work. And this should be prime time (as they say in the networks)—the hours when you are most rested and receptive.

I suspect a goodly number of our full-time students are planning to devote something less than this to their school work. To these students, I address an admonition: You are seriously endangering your standing as a student, the quality of your legal education and, most likely, your health. There is no excuse—absolutely none. Our "part-time program" allows a student to carry as few as 7 units of class work (18 hours of school work per week).

Case Study

The detailed study and analysis of assigned cases is the dominant mode of instruction in American law schools. If we assume that the cases assigned are selected because they present interesting problems, how are we to approach these problems? Shall we approach them as problems **to be solved** or as problems **already solved**? The distinction is crucial. Because if we emphasize the first approach,

then the classroom becomes a place of search for techniques—for craft skills in analyzing cases. Whereas, if the second approach is adopted, the decisions are "... a something done and complete, a something which provides authoritative datum about the state of the law." (Llewellyn, *The Current Crises in Legal Education*, 1 J. Leg. Ed. 211.)

I echo Llewellyn's view that classroom time is best spent in dissecting the facts and premises of selected cases. Or, to put it in the negative, **the imparting of information about subject matter is not the main business of the law school classroom.** Note that the approaches are not mutually exclusive; it is a matter of emphasis and direction. But, unless I am mistaken, only this choice can justify the use of the time-consuming methods of case instruction.

Reading

But competence in a discipline demands ever growing quantities of information. If "covering subject matter" is not attempted in the classroom or, if technique is to be emphasized at the expense of information, where shall the student get the vital information he needs—the legal rules extracted and arranged? The question should suggest the answer. Why, in books, of course! What are legal texts if not packages of information, neatly boxed and tagged? Your library has them for each subject. The next time you pass the Loan Desk window, examine the list of "Recommended Treatises" on the counter. Ask to examine the books listed and select at least one for each course you are enrolled in.

Get the most out of class. Prepare your cases carefully and participate in class discussion. Don't use class time to copy down information better obtained from textbooks. At the same time, use textbooks to orient your case study. Read them to master the outlines and basic content of the course. The acquisition of information is best accomplished man by man, each by himself.

DIVORCE AND ALIMONY...

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60-1518, G. S. for Kansas for 1949) which bars a similar action after two years following the foreign judgment, preclude the wife from bringing an original proceeding for alimony after a stated period. A requirement that support litigation be commenced in California within, say, a year or two after the final entry of the ex parte divorce would allow the former wife ample opportunity for financial independence, while at the same time providing the former husband with a definite date after which he may adequately provide for his second family.

Dean Dibble . . .

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the Air Force Division of the Armed Services Renegotiation Board, and was a member of the Los Angeles Regional Renegotiation Board.

From 1936 to 1941, Mr. Dibble was associated with Williamson, Hoge and Judson law firm, in Los Angeles.

During World War II, the dean was a Major in the U. S. Army, having served as an instructor in the Anti-Aircraft school in North Carolina. In 1944, he was assigned to the War Department Price Adjustment Board, in Washington, D. C., as an assistant counsel.

New Program

As the new dean, Mr. Dibble has initiated a three-semester legal writing program for the first and second year students. The new program will cover many phases of legal writing, including legal memoranda, law review ar-



DEAN DIBBLE

articles, trial and appellate briefs, contracts, wills, trusts and legislation.

President Speaks . . .

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and night students with great opportunities for development in the art of oral advocacy and in preparation of pleadings and appellate briefs. The *Loyola Digest* provides an outlet for student opinion as well as a showcase of comments on interesting aspects of the law in various fields. The Digest's Editorial Board will consider and review any articles submitted by students for publication.

"Student Lawyer"

I think that John Collins, Loyola Bar Association Vice-President, who attended the national convention of the American Law Students Association last summer as our delegate and as a national vice-president, deserves a special vote of thanks from the whole student body. John was successful in obtaining for Loyola space for an article in the *Student Lawyer Journal* on our school. The Journal is a national publication sent to the homes of all the nation's law schools, and in the October issue which you'll soon receive, Loyola Law School is featured.

Dance

In addition to the student competitions mentioned above, the Board of Bar Governors of the Association have already set the date for the Annual School Dance. This year's dance will be the best one ever held by the student body because it is scheduled for Saturday night, January 21st, 1961, at the Wilshire Country Club. The date—just two days after final exams—should be ideal for drawing a high percentage of students. The law school alumni will be extended an invitation to attend, and we hope to continue this year

to increase the alumni attendance at this dance.

There is a very important activity of the Association which is still in the planning stages—the Loyola Bar Association Placement Program. We feel that the student body organization has a real responsibility in this area. The third year day representatives, the fourth year night representatives and Marty Burke, ALSA Placement Representative, have been appointed by me as the committee for this program. As you might imagine, with no prior experience to work from, we'll need a great deal of help. Any students who have ideas in the placement area, especially in connection with the contemplated brochure on Loyola graduating students, should contact any member of the committee. Also, I'd like to extend an invitation to the alumni to furnish suggestions in the placement area.

Contrary to the Manhattan tendency to build on every available inch of land, more than 75 per cent of the 18-acre enclave of U.N. headquarters in New York is devoted to lawns, landscaping and gardens.

LOYOLA
DIGESTJOHN BAMBRICK
EditorMARY FLANAGAN
Associate EditorPublished Quarterly by the
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Blackstone's Commentaries

Now that Daylight Saving has been wrapped up for the season, and the lend-lease hour of April has been repaid, we are no longer on borrowed time but moving along at standard tempo . . . and what a dizzy rate it is . . . and so it must be if freeway traffic is to move at a pace making a quick shave—social that is—something more definite than a mere calculated risk . . . The Bar squeezed its yearly get-together into the tag end of September . . . The scene of its many and varied going-ons was the Ambassador and here were the final obsequies of the old order as the chronometers were pushed to normalcy . . . Now that it's a matter of history, there is a well-established opinion, that this was the most successful convention in the thirty-three years of its existence . . . Arrangements, accommodations, accomplishments, and know-how are the ingredients that go into the success formula . . . and each and all of them got top billing . . . of course, not a few bouquets landed in the lap of the "Quiet Man,"—JOHN MALONE, who was continuously on the job and in no small way responsible for the mechanics of organization . . . This is a long suit of his, and started back in his Law School days, where he was always doing the right thing at the right time . . . ALAN WOODARD, Alumni Prexy, qualified for the "Valiant One" on his pre-during-and past performance . . . 'Twas all above and beyond the call of duty . . . The Symposium, which with the years has become so much a part of the State Bar, that without it, the validity of the Convention would be seriously impaired, was the highlight of the week . . . Details make the perfect work and Prexy Al neglected nothing to give this classic occasion for stimulating thought and provoking speech, the touch of grandeur . . . And he kept it within the budget—another case of not sacrificing quality in the interest of economy—or as JIM COLLINS, used to say in the old slum days in the Byrne Building, "Even the best isn't good enough." TOM GARCIN—a long time no see—was among the gallant ones accounted for . . . he stole away from his Hollywood office where he's associated with BOB LIGHT and HERB GROSSMAN . . . someone had to mind the shop . . . His presence recalled the first State-wide Moot Court Competition (1952) . . . Tom was on the winning team that defeated California, Boalt Hall, that is . . . He was a party to the establishment of a noble tradition, which accounts for the fact that Loyola has been victorious in a majority of legal jousts both at the State and National level . . . And by the way the tradition still holds . . . for in the A.M. of the P.M. of the Symposium . . . the Court of Last Resort, had no trouble in deciding in favor of the petitioner, who protested that California's creation of a Commission to handle auto accident claims was a violation of his Constitutional rights . . . He got his day in Court . . . ROGER KELLY'S interest in this question—"Court or Commission," was the billing the Bar Convention gave it—brought him out to the panel discussion—that's as close as he got to the Symposium . . . BROTHER BOB did the stand-in for him for a greeting and quick leave taking . . . latest reports are that Roger's golf score is dropping . . . analysts show that the drop is directly in proportion to the increase of his practice—in law, that is, and his attention thereto . . . It was homecoming for a couple of country lawyers and incidentally the two most eligible bachelors in mid-California . . . LOUIE LA ROSE is wedded to remain in the hinterland (Visalia) and JOHN THOMAS HOURIGAN of Delano is the authority on Property there . . . its law and investments therein . . . MIKE CLEMENS, thanks to his training in Navigation on the Severn has no problem getting in and out of the Bel-Air . . . Iron Mike is carrying on a selected practice in the Wilshire Uplands . . . MARGARET KELLER, all the way from Ventura, and MARY GERTRUDE CREUTZ, junior partner of Creutz & Creutz, were evidence that the successful practice of law is not restricted to those of the male persuasion . . . KATHRYN FLANAGAN, recently retired as a referee on the Industrial Accident Commission, is a stellar example that the distaff side of life has made a notable contribution to the Bar of California . . . LOUIS MANTALICA and FRANK BARCLAY, closed up shop for the occasion and to make it a 100 per cent representation brought along the rest of the firm . . . JIMMIE McCARTHY who doubled for an instructor back in the early days of '28 brought much charm (his wife was along) to the soiree . . . After serving as President of the Santa Monica Bar Association, and—an excellent one at that—he's now settled back to the undisturbed practice of law . . . and, from all appearances, enjoying it.

Fraternity Row

PHI ALPHA DELTA

A cocktail party on October 16 at the home of Gary M. Cooper in Brentwood commenced the rushing as well as the social events for Ford Chapter P.A.D. Law Fraternity.

Large Attendance

The turnout of over 200 persons included Professor and Mrs. Marburg Yerkes, Professor Otto Kaus, Mr. and Mrs. Frank Gray and Mr. and Mrs. Hank Rohr.

A variety of drinks were served. The Padettes furnished excellent hors d'oeuvres.

On November 18 at the Commodore Hotel, located at 1203 W. 7th St., Los Angeles, P.A.D. will hold its annual "Smoker Rush Party." A very interesting program is scheduled. Beer and snacks will be served.

All first year students are cordially invited to attend.

Events

In the coming months many activities are scheduled. A Christmas party, monthly luncheons, Judges' night and the regional convocation of P.A.D. at the Ambassador Hotel, are some of the events planned.

PHI DELTA PHI

The international legal fraternity of Phi Delta Phi is well-known in legal circles throughout the country for its success in furnishing a sound social program to the law student, as well as aiding him in his adjustment to a seemingly endless schedule of studying.

Rushing

The Phi Delta Phi rushing program is primarily carried on through the personal contact of the active members. However, the fraternity plans a series of social events designed to give all incoming students an opportunity to meet the fraternity and become well-acquainted with it. Some of these events are open to all incoming students, others are by invitation.

Parties

This month a dance will be held at the Los Angeles Press Club located where the Drunkard was once played, the Theatre Mart, on North Vermont. The biggest event of the fall season will be a barbecue and cocktail party. The final event of the fall will be a post-finals celebration at the Pabst Brewery on North Main Street. The release from the exigencies of studying and the tension of finals should make for a well-attended and happy event.

Moot Court . . .

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Judges Alfred Gitelson, James McRoberts and Reginald Bauder.

On the same argument, held at Los Angeles earlier this year, Loyola took a decision from the University of San Francisco Law School.

Nationals

The National Moot Court competition briefs will be judged on November 14, 1960. The oral arguments will be heard from November 15 through November 19, 1960. Law schools participating in the regional contest will be the University of Southern California, U.C.L.A., Loyola, Santa Clara and the University of San Francisco.

The regional winner will compete in the National finals in New York. Traditionally, the final arguments are held before justices of the United States Supreme Court and State Supreme Courts.

LOYOLA DIGEST

LOYOLA LAW SCHOOL

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